

## §211.110

## 40 CFR Ch. I (7–1–00 Edition)

(2) Where test product storage areas or facilities are concerned, “operating hours” means all times during which personnel, other than custodial personnel, are at work in the vicinity of the area or facility and have access to it.

(3) Where other facilities or areas are concerned, “operating hours” means all times during which products are being manufactured or assembled; or all times during which products are being tested or maintained; or records are being compiled; or when any other procedure or activity related to labeling, selective enforcement auditing, or product manufacture or assembly being carried out.

(4) “Reasonable assistance” means providing timely and unobstructed access to test products or to products and records that are required by this part, and the means for copying those records or the opportunity to test the test products.

(e) The manufacturer must admit an EPA Enforcement Officer who presents a warrant authorizing entry to a facility or site. If the EPA officer does not have the warrant, he may enter a facility or site only if the manufacturer consents.

(1) It is not a violation of this regulation or the Act if anyone refuses to allow an officer without a warrant to enter the site.

(2) The Administrator or his designee may proceed *ex parte* (without the other party’s knowledge) to obtain a warrant whether or not the manufacturer has refused entry to an EPA Enforcement Officer.

(Secs. 11 and 13, Pub. L. 92-574, 86 Stat. 1242, 1244 (42 U.S.C. 4910, 4912))

[44 FR 56127, Sept. 28, 1979, as amended at 47 FR 57716, Dec. 28, 1982]

### §211.110 Exemptions.

#### §211.110-1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the produce itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (5) of the Act.

(b) No request for a testing exemption is required.

(c) For purposes of section 11(d) of the Act, any testing exemption shall be void ab initio with respect to each new product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

[47 FR 57716, Dec. 28, 1982]

#### §211.110-2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (5) of the Act.

(b) No request for a national security exemption is required.

(c) For purposes of section 11(d) of the Act, any national security exemption shall be void ab initio with respect to each new product, originally intended for a national security agency, but distributed in commerce for other uses.

[47 FR 57716, Dec. 28, 1982]

#### §211.110-3 Export exemptions.

(a) A new product intended solely for export, and which has satisfied the requirements of other applicable regulations of this part, will be exempt from the prohibitions of section 10(a) (3) and (4) of the Act.

(b) Requests for an export exemption are not required.

(c) For purposes of section 11(d) of the Noise Control Act, the Administrator may consider any export exemption under section 10(b)(2) void from the beginning if a new product, intended only for export, is distributed in commerce in the United States.

(Sec. 10(b)(2), Pub. L. 92-574, 86 Stat. 1242 (42 U.S.C. 4909(b)(2)))

[44 FR 56127, Sept. 28, 1979, as amended at 47 FR 57716, Dec. 28, 1982]

#### §211.111 Testing by the Administrator.

(a)(1) To determine whether products conform to applicable regulations under this part, the Administrator may require that any product that is to be